



February 20, 2004

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# ENGROSSED

## HOUSE BILL No. 1194

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DIGEST OF HB 1194 (Updated February 19, 2004 10:54 am - DI 106)

**Citations Affected:** IC 10-13; IC 12-7; IC 12-13; IC 12-14; IC 31-9; IC 31-33; IC 31-34; IC 31-37; IC 31-39; IC 34-30.

**Synopsis:** Child abuse reporting. Provides that a CPS child abuse or neglect report may conclude that abuse or neglect is indicated. (Current law allows only substantiated and unsubstantiated findings.) Provides that criminal history checks are required of certain individuals. Requires the local child protection service to provide training to caseworker's concerning the statutory and constitutional rights of persons subject to investigation. Establishes the statewide child fatality review team to investigate fatalities involving children. Requires the disclosure of redacted information concerning the death of a child determined to be the result of abuse, abandonment, or neglect. Provides that a disinterested person appointed by a juvenile court may review redacted records to insure that the records have been properly redacted.

**Effective:** July 1, 2004.

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**Avery, Summers, Budak,  
Orentlicher**

(SENATE SPONSORS — DILLON, BRODEN, LANANE, SERVER,  
BREAUX, HOWARD, LONG)

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January 13, 2004, read first time and referred to Committee on Human Affairs.  
January 29, 2004, amended, reported — Do Pass.  
February 4, 2004, read second time, amended, ordered engrossed.  
February 5, 2004, engrossed. Read third time, passed. Yeas 93, nays 0.

SENATE ACTION

February 10, 2004, read first time and referred to Committee on Criminal, Civil and Public Policy.  
February 19, 2004, amended, reported favorably — Do Pass.

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EH 1194—LS 7344/DI 105+



February 20, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1194

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 10-13-3-6, AS ADDED BY P.L.2-2003, SECTION  
2 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
3 2004]: Sec. 6. (a) As used in this chapter, "criminal justice agency"  
4 means any agency or department of any level of government whose  
5 principal function is:  
6 (1) the apprehension, prosecution, adjudication, incarceration,  
7 probation, rehabilitation, or representation of criminal offenders;  
8 (2) the location of parents with child support obligations under 42  
9 U.S.C. 653;  
10 (3) the licensing and regulating of riverboat gambling operations;  
11 or  
12 (4) the licensing and regulating of pari-mutuel horse racing  
13 operations.  
14 (b) The term includes the following:  
15 (1) The office of the attorney general.  
16 (2) The Medicaid fraud control unit, for the purpose of  
17 investigating offenses involving Medicaid.

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(3) A nongovernmental entity that performs as its principal function the:

(A) apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders;

(B) location of parents with child support obligations under 42 U.S.C. 653;

(C) licensing and regulating of riverboat gambling operations; or

(D) licensing and regulating of pari-mutuel horse racing operations;

under a contract with an agency or department of any level of government.

**(4) An employee of the division of family and children, a caseworker (as defined in IC 31-9-2-11), or a juvenile probation officer conducting a criminal history check (as defined in IC 31-9-2-29.7) under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:**

**(A) child at imminent risk of placement;**

**(B) child in need of services; or**

**(C) delinquent child.**

SECTION 2. IC 12-7-2-28, AS AMENDED BY P.L.34-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 28. "Child" means the following:

(1) For purposes of IC 12-13-15, the meaning set forth in IC 12-13-15-1.

**(2) For purposes of IC 12-13-15.1, the meaning set forth in IC 12-13-15.1-1.**

**(3)** For purposes of IC 12-17.2 and IC 12-17.4, an individual who is less than eighteen (18) years of age.

~~(3)~~ **(4)** For purposes of IC 12-26, the meaning set forth in IC 31-9-2-13(d).

SECTION 3. IC 12-7-2-76.7, AS ADDED BY P.L.34-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 76.7. **(a)** "Emergency medical services", for purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-2.

**(b) "Emergency medical services", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-2.**

SECTION 4. IC 12-7-2-124.5, AS ADDED BY P.L.34-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 124.5. **(a)** "Local child fatality review team", for purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-3.

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(b) "Local child fatality review team", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-3.

SECTION 5. IC 12-7-2-129.5, AS ADDED BY P.L.34-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 129.5. (a) "Mental health provider", for purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-4.

(b) "Mental health provider", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-4.

SECTION 6. IC 12-7-2-186.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 186.5. "Statewide child fatality review committee", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-5.

SECTION 7. IC 12-13-15-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6.5. A local child fatality review team may request that the statewide child fatality review committee make a fatality review of a child from the area served by the local child fatality review team if a majority of the members of a local child fatality review team vote to make the request.

SECTION 8. IC 12-13-15.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

**Chapter 15.1. Statewide Child Fatality Review Committee**

**Sec. 1.** As used in this chapter, "child" means an individual less than eighteen (18) years of age.

**Sec. 2.** As used in this chapter, "emergency medical services" means emergency ambulance services or other services, including extrication and rescue services, provided to an individual in need of immediate medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.

**Sec. 3.** As used in this chapter, "local child fatality review team" refers to a county or regional child fatality review team established under IC 12-13-15.

**Sec. 4.** As used in this chapter, "mental health provider" means any of the following:

- (1) A registered nurse or licensed practical nurse licensed under IC 25-23.
- (2) A clinical social worker licensed under IC 25-23.6-5.
- (3) A marriage and family therapist licensed under IC 25-23.6-8.
- (4) A psychologist licensed under IC 25-33.

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(5) A school psychologist licensed by the Indiana state board of education.

Sec. 5. As used in this chapter, "statewide child fatality review committee" refers to the statewide child fatality review committee established by section 6 of this chapter.

Sec. 6. (a) The statewide child fatality review committee is established for the purpose of reviewing a child's death that is:

- (1) sudden;
- (2) unexpected; or
- (3) unexplained;

if the county where the child died does not have a local child fatality review team or if the local child fatality review team requests a review of the child's death by the statewide committee.

(b) The statewide child fatality review committee may also review the death of a child upon request by an individual.

(c) A request submitted under subsection (b) must set forth:

- (1) the name of the child;
- (2) the age of the child;
- (3) the county where the child died or where the near fatality occurred;
- (4) whether a local child fatality review team reviewed the death; and
- (5) the cause of death of the deceased child.

Sec. 7. A child fatality review conducted by the statewide child fatality review committee under this chapter shall consist of determining:

- (1) whether similar future deaths could be prevented; and
- (2) agencies or resources that should be involved to adequately prevent future deaths of children.

Sec. 8. The statewide child fatality review committee consists of the following members appointed by the governor:

- (1) a coroner or deputy coroner;
- (2) a representative from:
  - (A) the state department of health established by IC 16-19-1-1;
  - (B) a local health department established under IC 16-20-2; or
  - (C) a multiple county health department established under IC 16-20-3;
- (3) a pediatrician;
- (4) a representative of law enforcement;
- (5) a representative from an emergency medical services

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- provider;
- (6) a director of an office of family and children;
- (7) a representative of a prosecuting attorney;
- (8) a pathologist with forensic experience who is licensed to practice medicine in Indiana;
- (9) a mental health provider;
- (10) a representative of a child abuse prevention program;
- and
- (11) a representative of the department of education.

Sec. 9. (a) The chairperson of the statewide child fatality review committee shall be selected by the governor.

(b) The statewide child fatality review committee shall meet at the call of the chairperson.

(c) The statewide child fatality review committee chairperson shall determine the agenda for each meeting.

Sec. 10. (a) Except as provided in subsection (b), meetings of the statewide child fatality review committee are open to the public.

(b) Except as provided in subsection (d), a meeting of the statewide child fatality review committee that involves:

- (1) confidential records; or
- (2) identifying information regarding the death of a child that is confidential under state or federal law;

shall be held as an executive session.

(c) If a meeting is held as an executive session under subsection (b), each individual who:

- (1) attends the meeting; and
- (2) is not a member of the statewide child fatality review committee;

shall sign a confidentiality statement prepared by the division. The statewide child fatality review committee shall keep all confidentiality statements signed under this subsection.

(d) A majority of the members of the statewide child fatality review committee may vote to disclose any report or part of a report regarding a fatality review to the public if the information is in the general public interest as determined by the statewide child fatality review committee.

Sec. 11. Members of the statewide child fatality review committee and individuals who attend a meeting of the statewide child fatality review team as an invitee of the chairperson:

- (1) may discuss among themselves confidential matters that are before the statewide child fatality review committee;
- (2) are bound by all applicable laws regarding the

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confidentiality of matters reviewed by the statewide child fatality review committee; and

(3) except when acting:

(A) with malice;

(B) in bad faith; or

(C) with gross negligence;

are immune from any civil or criminal liability that might otherwise be imposed as a result of communicating among themselves about confidential matters that are before the statewide child fatality review committee.

Sec. 12. The division shall provide training to the statewide child fatality review committee.

Sec. 13. (a) The division shall collect and document information surrounding the deaths of children reviewed by the statewide child fatality review committee. The division shall develop a data collection form that includes:

(1) identifying and nonidentifying information;

(2) information regarding the circumstances surrounding a death;

(3) factors contributing to a death; and

(4) findings and recommendations.

(b) The data collection form developed under this section must also be provided to:

(1) the appropriate community child protection team established under IC 31-33-3; and

(2) the appropriate:

(A) local health department established under IC 16-20-2; or

(B) multiple county health department established under IC 16-20-3.

Sec. 14. The affirmative votes of the voting members of a majority of the statewide child fatality review committee are required for the committee to take action on any measure.

Sec. 15. The expenses of the statewide child fatality review committee shall be paid from funds appropriated to the division.

Sec. 16. The testimony of a member of the statewide child fatality review committee is not admissible as evidence concerning an investigation by the statewide child fatality review committee.

SECTION 9. IC 12-14-25.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Family preservation services may provide:

(1) comprehensive, coordinated, flexible, and accessible services;

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- (2) intervention as early as possible with emphasis on establishing a safe and nurturing environment;
- (3) services to families who have members placed in care settings outside the nuclear family; **and**
- (4) planning options for temporary placement outside the family if it would endanger the child to remain in the home.

**(b) Family preservation services may not include a temporary out-of-home placement if a person who is:**

- (1) currently residing in the location designated as the out-of-home placement; or
- (2) expected to be residing in the location designated as the out-of-home placement during the time the child at imminent risk of placement would be placed in the location;

**has committed an act resulting in a substantiated report of child abuse or neglect or has a juvenile adjudication or a conviction for a felony listed in IC 12-17.4-4-11.**

**(c) Before placing a child at imminent risk of placement in a temporary out-of-home placement, the county office of family and children shall conduct a criminal history check (as defined in IC 31-9-2-29.7) for each person described in subsection (b)(1) and (b)(2). However, the county office of family and children is not required to conduct a criminal history check under this section if the temporary out-of-home placement is made to an entity or facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.**

**SECTION 10. IC 31-9-2-29.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 29.7. "Criminal history check", for purposes of IC 31-34 and IC 31-37, means a report consisting of:**

- (1) criminal history data (as defined in IC 10-13-3-5);
- (2) each substantiated report of child abuse or neglect; and
- (3) each adjudication for a delinquent act described in IC 31-37-1-2.

**SECTION 11. IC 31-9-2-58.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 58.5. "Indicated", for purposes of IC 31-33-8-12, means facts obtained during an investigation of suspected child abuse or neglect that:**

**(1) provide:**

- (A) significant indications that a child may be at risk for abuse or neglect; or

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**(B) evidence that abuse or neglect previously occurred;  
and**

**(2) cannot be classified as substantiated or unsubstantiated.**

SECTION 12. IC 31-33-2-2 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The local child  
protection service:

(1) must have sufficient qualified and trained staff to fulfill the  
purpose of this article; ~~and~~

(2) must be organized to maximize the continuity of  
responsibility, care, and service of individual caseworkers toward  
individual children and families; **and**

**(3) must provide training, for each staff person who is  
involved in the investigation of child abuse or neglect or who  
is involved in the provision of treatment services under  
IC 31-33-12 or IC 31-33-13 in the duty of the staff person, to  
recognize and attempt to uphold the:**

**(A) statutory rights of a child and any member of a child's  
family, including a child's guardian or custodian, who is  
the subject of an investigation of child abuse or neglect;  
and**

**(B) right of a child and any member of a child's family,  
including a child's guardian or custodian, who is the  
subject of an investigation of child abuse or neglect to be  
protected against unreasonable search and seizure under:**

**(i) the Fourth Amendment to the Constitution of the  
United States; and**

**(ii) Article 1, Section 11 of the Constitution of the State  
of Indiana.**

SECTION 13. IC 31-33-7-7 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) When a law  
enforcement agency receives an initial report under IC 31-33-5-4 that  
a child may be a victim of child abuse or neglect, the law enforcement  
agency shall:

(1) immediately communicate the report to the local child  
protection service, whether or not the law enforcement agency has  
reason to believe there exists an imminent danger to the child's  
health or welfare; and

(2) conduct an immediate, onsite investigation of the report along  
with the local child protection service whenever the law  
enforcement agency has reason to believe that an offense has been  
committed.

**(b) A law enforcement officer or a member of a local child**

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1 **protection service conducting an onsite investigation shall, upon**  
 2 **the initiation of the onsite investigation, inform each person who is**  
 3 **the subject of the investigation of the nature of the complaint. The**  
 4 **law enforcement officer or the member of the local child protection**  
 5 **service is only required to provide a person who is the subject of an**  
 6 **investigation with information the person is entitled to receive**  
 7 **under IC 31-33-18-2.**

8 (c) In all cases, the law enforcement agency shall forward any  
 9 information, including copies of investigation reports, on incidents of  
 10 cases in which a child may be a victim of child abuse or neglect,  
 11 whether or not obtained under this article, to:

12 (1) the local child protection agency; and

13 (2) the juvenile court under IC 31-34-7.

14 SECTION 14. IC 31-33-8-1 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The local child  
 16 protection service shall initiate an immediate and appropriately  
 17 thorough child protection investigation of every report of known or  
 18 suspected child abuse or neglect the local child protection service  
 19 receives, whether in accordance with this article or otherwise.

20 (b) Subject to subsections (d) and (e), if the report alleges a child  
 21 may be a victim of child abuse, the investigation shall be initiated  
 22 immediately, but not later than twenty-four (24) hours after receipt of  
 23 the report.

24 (c) Subject to subsections (d) and (e), if reports of child neglect are  
 25 received, the investigation shall be initiated within a reasonably prompt  
 26 time, but not later than five (5) days, with the primary consideration  
 27 being the well-being of the child who is the subject of the report.

28 (d) If the immediate safety or well-being of a child appears to be  
 29 endangered or the facts otherwise warrant, the investigation shall be  
 30 initiated regardless of the time of day.

31 (e) If the child protection service has reason to believe that the child  
 32 is in imminent danger of serious bodily harm, the child protection  
 33 service shall initiate within one (1) hour an immediate, onsite  
 34 investigation.

35 **(f) A member of a local child protection service conducting an**  
 36 **onsite investigation shall, upon the initiation of the onsite**  
 37 **investigation, inform each person who is the subject of the**  
 38 **investigation of the nature of the complaint. The member of the**  
 39 **local child protection service is only required to provide a person**  
 40 **who is the subject of an investigation with information the person**  
 41 **is entitled to receive under IC 31-33-18-2.**

42 SECTION 15. IC 31-33-8-2 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) Upon the receipt  
 2 of each report under this chapter of known or suspected child abuse,  
 3 the local child protection service shall contact the law enforcement  
 4 agency in the appropriate jurisdiction.

5 (b) The law enforcement agency, with the local child protection  
 6 service, shall conduct an immediate onsite investigation of the report  
 7 if the law enforcement agency has reason to believe that an offense has  
 8 been committed. The law enforcement agency shall investigate the  
 9 alleged child abuse or neglect under this chapter in the same manner  
 10 that the law enforcement agency conducts any other criminal  
 11 investigation.

12 (c) **A law enforcement officer or a member of a local child**  
 13 **protection service conducting an onsite investigation shall, upon**  
 14 **the initiation of the onsite investigation, inform each person who is**  
 15 **the subject of the investigation of the nature of the complaint. The**  
 16 **law enforcement officer or the member of the local child protection**  
 17 **service is only required to provide a person who is the subject of an**  
 18 **investigation with information the person is entitled to receive**  
 19 **under IC 31-33-18-2.**

20 SECTION 16. IC 31-33-8-12 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) Upon  
 22 completion of an investigation, the local child protection service shall  
 23 classify reports as substantiated, **indicated**, or unsubstantiated.

24 (b) **Except as provided in subsection (c), a local child protection**  
 25 **service shall expunge investigation records one (1) year after a**  
 26 **report has been classified as indicated under subsection (a).**

27 (c) **If a local child protection service has:**

- 28 (1) **classified a report under subsection (a) as indicated; and**  
 29 (2) **not expunged the report under subsection (b);**

30 **and the subject of the report is the subject of a subsequent report,**  
 31 **the one (1) year period in subsection (b) is tolled for one (1) year**  
 32 **after the date of the subsequent report.**

33 SECTION 17. IC 31-33-18-1 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) **Except as**  
 35 **provided in subsection (b), the following are confidential:**

- 36 (1) Reports made under this article (or IC 31-6-11 before its  
 37 repeal).  
 38 (2) Any other information obtained, reports written, or  
 39 photographs taken concerning the reports in the possession of:  
 40 (A) the division of family and children;  
 41 (B) the county office of family and children; or  
 42 (C) the local child protection service.

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(b) Except as provided in subsection (c), all records held by:

- (1) the division of family and children;
- (2) a county office of family and children;
- (3) a local child protection service;
- (4) a local child fatality review team established under IC 12-13-15; or
- (5) the statewide child fatality review committee established under IC 12-13-15.1-6;

regarding the death of a child determined to be a result of abuse, abandonment, or neglect are not confidential and shall be disclosed to any person who requests the information if the record has been redacted to remove information not directly relevant to the death. The person requesting the information may be required to pay the reasonable expenses of redacting the record. Any information in a report that is otherwise confidential under state or federal law shall not be released.

(c) The entity releasing a redacted record described in subsection (b) shall certify in writing that the record has been redacted to remove information not directly relevant to the death.

(d) A person who believes that a record has been improperly redacted may file a written request for review of the record with a court exercising juvenile jurisdiction in the county in which the fatality occurred. Within thirty (30) days after receiving a written request for review, the court shall appoint a disinterested person having expertise in the area of juvenile and family law to review the record and determine whether the record has been properly redacted. If the records has not been properly redacted, the disinterested person shall properly redact the record.

(e) The court that appointed the disinterested person shall determine reasonable compensation for the disinterested person and order the person requesting the record review to pay this amount to the disinterested person. However, if the court finds that the entity that redacted the record did not redact the record in good faith, or was grossly negligent in redacting the record, the court may order the entity that redacted the record to pay some or all of the compensation to the disinterested person.

SECTION 18. IC 31-33-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The reports and other material described in ~~section 1~~ **section 1(a)** of this chapter shall be made available only to the following:

- (1) Persons authorized by this article.
- (2) A legally mandated public or private child protective agency

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investigating a report of child abuse or neglect or treating a child or family that is the subject of a report or record.

(3) A police or other law enforcement agency, prosecuting attorney, or coroner in the case of the death of a child who is investigating a report of a child who may be a victim of child abuse or neglect.

(4) A physician who has before the physician a child whom the physician reasonably suspects may be a victim of child abuse or neglect.

(5) An individual legally authorized to place a child in protective custody if:

(A) the individual has before the individual a child whom the individual reasonably suspects may be a victim of abuse or neglect; and

(B) the individual requires the information in the report or record to determine whether to place the child in protective custody;

(6) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, custodian, or other person who is responsible for the child's welfare.

(7) An individual named in the report or record who is alleged to be abused or neglected or, if the individual named in the report is a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.

(8) Each parent, guardian, custodian, or other person responsible for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with protection for the identity of reporters and other appropriate individuals.

(9) A court, upon the court's finding that access to the records may be necessary for determination of an issue before the court. However, access is limited to in camera inspection unless the court determines that public disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.

(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.

(11) An appropriate state or local official responsible for the child protective service or legislation carrying out the official's official functions.

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(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.

(13) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.

(14) A person about whom a report has been made, with protection for the identity of:

(A) any person reporting known or suspected child abuse or neglect; and

(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

**(15) An employee of the division of family and children, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:**

**(A) child at imminent risk of placement;**

**(B) child in need of services; or**

**(C) delinquent child.**

**The results of a criminal history check conducted under this subdivision must be disclosed to a court determining the placement of a child described in clauses (A) through (C).**

**(16) A local child fatality review team established under IC 12-13-15-6.**

**(17) The statewide child fatality review committee established by IC 12-13-15.1-6.**

SECTION 19. IC 31-33-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. **(a)** An individual who

~~(1) knowingly requests, obtains, or seeks to obtain child abuse or neglect information under false pretenses or~~

~~(2) knowingly falsifies child abuse or neglect information or records;~~

commits a Class B misdemeanor.

**(b) A person who knowingly or intentionally:**

**(1) falsifies child abuse or neglect information or records; or**

**(2) obstructs or interferes with a child abuse investigation, including an investigation conducted by a local child fatality**

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1           **review team or the statewide child fatality review committee;**  
 2           **commits obstruction of a child abuse investigation, a Class A**  
 3           **misdemeanor.**

4           SECTION 20. IC 31-34-4-2 IS AMENDED TO READ AS  
 5           FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) If a child alleged  
 6           to be a child in need of services is taken into custody under an order of  
 7           the court under this chapter, the court shall consider placing the child  
 8           with a suitable and willing blood or adoptive relative caretaker,  
 9           including a grandparent, an aunt, an uncle, or an adult sibling, before  
 10          considering any other out-of-home placement.

11          (b) Before placing a child in need of services with a blood relative  
 12          or an adoptive relative caretaker, the court may order the division of  
 13          family and children to:

14               (1) complete a home study of the relative's home; and

15               (2) provide the court with a placement recommendation.

16          (c) **Except as provided in subsection (e), before placing a child**  
 17          **in need of services in an out-of-home placement, including**  
 18          **placement with a blood or an adoptive relative caretaker, the court**  
 19          **shall order the division of family and children to conduct a**  
 20          **criminal history check of each person who is:**

21               (1) currently residing in the location designated as the  
 22               out-of-home placement; or

23               (2) expected to be residing in the location designated as the  
 24               out-of-home placement during the time the child would be  
 25               placed in the location.

26          (d) A court may not order an out-of-home placement if a person  
 27          described in subsection (c)(1) or (c)(2) has:

28               (1) committed an act resulting in a substantiated report of  
 29               child abuse or neglect; or

30               (2) been convicted of a felony listed in IC 12-17.4-4-11 or had  
 31               a juvenile adjudication for an act that would be a felony listed  
 32               in IC 12-17.4-4-11 if committed by an adult.

33          (e) The court is not required to order the division of family and  
 34          children to conduct a criminal history check under subsection (c)  
 35          if the court orders an out-of-home placement to an entity or a  
 36          facility that is not a residence (as defined in IC 3-5-2-42.5) or that  
 37          is licensed by the state.

38          SECTION 21. IC 31-34-18-6.1 IS AMENDED TO READ AS  
 39          FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6.1. (a) The  
 40          predispositional report prepared by a probation officer or caseworker  
 41          shall include the following information:

42               (1) A description of all dispositional options considered in

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preparing the report.

(2) An evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement recommended under the guidelines described in section 4 of this chapter.

(3) The name, occupation and position, and any relationship to the child of each person with whom the preparer of the report conferred as provided in section 1.1 of this chapter.

**(b) If a probation officer or a caseworker is considering an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the probation officer or caseworker shall conduct a criminal history check for each person who is:**

**(1) currently residing in the location designated as the out-of-home placement; or**

**(2) expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.**

**The results of the criminal history check must be included in the predispositional report.**

**(c) A probation officer or caseworker is not required to conduct a criminal history check under this section if:**

**(1) the probation officer or caseworker is considering only an out-of-home placement to an entity or facility that:**

**(A) is not a residence (as defined in IC 3-5-2-42.5); or**

**(B) is licensed by the state; or**

**(2) placement under this section is undetermined at the time the predispositional report is prepared.**

SECTION 22. IC 31-34-19-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. **(a) A court may not enter a dispositional decree under subsection (b) if a person who is:**

**(1) currently residing in the location designated as the out-of-home placement; or**

**(2) expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location;**

**has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. If a criminal history check has not been conducted before a dispositional decree is entered under this section, the court shall order the probation officer or caseworker who prepared the predispositional report to**

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1 **conduct a criminal history check in the manner set forth in**  
 2 **IC 31-34-18-6.1.**

3 **(b)** In addition to the factors under section 6 of this chapter, if the  
 4 court enters a dispositional decree regarding a child in need of services  
 5 that includes an out-of-home placement, the court shall consider  
 6 whether the child should be placed with the child's suitable and willing  
 7 blood or adoptive relative caretaker, including a grandparent, an aunt,  
 8 an uncle, or an adult sibling, before considering other out-of-home  
 9 placements for the child.

10 **(c) The court is not required to order a probation officer or**  
 11 **caseworker to conduct a criminal history check under subsection**  
 12 **(a) if the court orders an out-of-home placement to an entity or a**  
 13 **facility that is not a residence (as defined in IC 3-5-2-42.5) or that**  
 14 **is licensed by the state.**

15 SECTION 23. IC 31-34-20-1 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. **Subject to section**  
 17 **1.5 of this chapter**, if a child is a child in need of services, the juvenile  
 18 court may enter one (1) or more of the following dispositional decrees:

19 (1) Order supervision of the child by the probation department or  
 20 the county office of family and children.

21 (2) Order the child to receive outpatient treatment:

22 (A) at a social service agency or a psychological, a psychiatric,  
 23 a medical, or an educational facility; or

24 (B) from an individual practitioner.

25 (3) Remove the child from the child's home and place the child in  
 26 another home or shelter care facility. Placement under this  
 27 subdivision includes authorization to control and discipline the  
 28 child.

29 (4) Award wardship to a person or shelter care facility. Wardship  
 30 under this subdivision does not include the right to consent to the  
 31 child's adoption.

32 (5) Partially or completely emancipate the child under section 6  
 33 of this chapter.

34 (6) Order:

35 (A) the child; or

36 (B) the child's parent, guardian, or custodian;  
 37 to receive family services.

38 (7) Order a person who is a party to refrain from direct or indirect  
 39 contact with the child.

40 SECTION 24. IC 31-34-20-1.5 IS ADDED TO THE INDIANA  
 41 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 42 [EFFECTIVE JULY 1, 2004]: **Sec. 1.5. (a) The juvenile court may**

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not enter a dispositional decree placing a child in another home under section 1(3) of this chapter or awarding wardship to a person under section 1(4) of this chapter if a person who is:

(1) currently residing in the home in which the child would be placed under section 1(3) or 1(4) of this chapter; or

(2) expected to be residing in the home in which the child would be placed under section 1(3) or 1(4) of this chapter during the time the child would be placed in the home;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check to determine if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-34-4-2, IC 31-34-18-6.1, or IC 31-34-19-7 establishes whether a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

SECTION 25. IC 31-34-21-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7.5. (a) The juvenile court may not approve a permanency plan under subsection (c)(1)(D) or (c)(1)(E) if a person who is:

(1) currently residing with a person described in subsection (c)(1)(D) or (c)(1)(E); or

(2) expected to be residing with a person described in subsection (c)(1)(D) or (c)(1)(E) during the time the child would be placed in the location;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or

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caseworker who prepared the predispositional report to conduct a criminal history check to determine if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-34-4-2, IC 31-34-18-6.1, IC 31-34-19-7, or IC 31-34-20-1.5 establishes whether a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(c) A permanency plan under this chapter includes the following:

(1) The intended permanent or long term arrangements for care and custody of the child that may include any of the following arrangements that the court considers most appropriate and consistent with the best interests of the child:

(A) Return to or continuation of existing custodial care within the home of the child's parent, guardian, or custodian or placement of the child with the child's noncustodial parent.

(B) Initiation of a proceeding by the agency or appropriate person for termination of the parent-child relationship under IC 31-35.

(C) Placement of the child for adoption.

(D) Placement of the child with a responsible person, including:

(i) an adult sibling;

(ii) a grandparent;

(iii) an aunt;

(iv) an uncle; or

(v) ~~other~~ another relative;

who is able and willing to act as the child's permanent custodian and carry out the responsibilities required by the permanency plan.

(E) Appointment of a legal guardian. The legal guardian appointed under this section is a caretaker in a judicially created relationship between the child and caretaker that is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights

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with respect to the child:

(i) Care, custody, and control of the child.

(ii) Decision making concerning the child's upbringing.

(F) Placement of the child in another planned, permanent living arrangement.

(2) A time schedule for implementing the applicable provisions of the permanency plan.

(3) Provisions for temporary or interim arrangements for care and custody of the child, pending completion of implementation of the permanency plan.

(4) Other items required to be included in a case plan under IC 31-34-15 or federal law, consistent with the permanent or long term arrangements described by the permanency plan.

SECTION 26. IC 31-37-17-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6.1. **(a)** The predispositional report prepared by a probation officer or caseworker shall include the following information:

(1) A description of all dispositional options considered in preparing the report.

(2) An evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement recommended under the guidelines described in section 4 of this chapter.

(3) The name, occupation and position, and any relationship to the child of each person with whom the preparer of the report conferred as provided in section 1.1 of this chapter.

**(b) If a probation officer or a caseworker is considering an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the probation officer or caseworker must conduct a criminal history check for each person who is:**

**(1) currently residing in the location designated as the out-of-home placement; or**

**(2) expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.**

**The results of the criminal history check must be included in the predispositional report.**

**(c) A probation officer or caseworker is not required to conduct a criminal history check under this section if:**

**(1) the probation officer or caseworker is considering only an out-of-home placement to an entity or a facility that:**

**(A) is not a residence (as defined in IC 3-5-2-42.5); or**

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- 1                   **(B) is licensed by the state; or**  
 2                   **(2) placement under this section is undetermined at the time**  
 3                   **the predispositional report is prepared.**

4           SECTION 27. IC 31-37-19-1 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. **Subject to section**  
 6 **6.5 of this chapter**, if a child is a delinquent child under IC 31-37-2,  
 7 the juvenile court may enter one (1) or more of the following  
 8 dispositional decrees:

- 9           (1) Order supervision of the child by the probation department or  
 10 the county office of family and children.  
 11           (2) Order the child to receive outpatient treatment:  
 12               (A) at a social service agency or a psychological, a psychiatric,  
 13               a medical, or an educational facility; or  
 14               (B) from an individual practitioner.  
 15           (3) Remove the child from the child's home and place the child in  
 16 another home or shelter care facility. Placement under this  
 17 subdivision includes authorization to control and discipline the  
 18 child.  
 19           (4) Award wardship to a person or shelter care facility. Wardship  
 20 under this subdivision does not include the right to consent to the  
 21 child's adoption.  
 22           (5) Partially or completely emancipate the child under section 27  
 23 of this chapter.  
 24           (6) Order:  
 25               (A) the child; or  
 26               (B) the child's parent, guardian, or custodian;  
 27 to receive family services.  
 28           (7) Order a person who is a party to refrain from direct or indirect  
 29 contact with the child.

30           SECTION 28. IC 31-37-19-6, AS AMENDED BY P.L.1-2003,  
 31 SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 32 JULY 1, 2004]: Sec. 6. (a) This section applies if a child is a delinquent  
 33 child under IC 31-37-1.

34           (b) Except as provided in section 10 of this chapter **and subject to**  
 35 **section 6.5 of this chapter**, the juvenile court may:

- 36           (1) enter any dispositional decree specified in section 5 of this  
 37 chapter; and  
 38           (2) take any of the following actions:  
 39               (A) Award wardship to:  
 40                   (i) the department of correction for housing in a correctional  
 41                   facility for children; or  
 42                   (ii) a community based correctional facility for children.

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Wardship under this subdivision does not include the right to consent to the child's adoption.

(B) If the child is less than seventeen (17) years of age, order confinement in a juvenile detention facility for not more than the lesser of:

(i) ninety (90) days; or

(ii) the maximum term of imprisonment that could have been imposed on the child if the child had been convicted as an adult offender for the act that the child committed under IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).

(C) If the child is at least seventeen (17) years of age, order confinement in a juvenile detention facility for not more than the lesser of:

(i) one hundred twenty (120) days; or

(ii) the maximum term of imprisonment that could have been imposed on the child if the child had been convicted as an adult offender for the act that the child committed under IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).

(D) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.

(E) Award wardship to a person or shelter care facility. Wardship under this subdivision does not include the right to consent to the child's adoption.

(F) Place the child in a secure private facility for children licensed under the laws of a state. Placement under this subdivision includes authorization to control and discipline the child.

(G) Order a person who is a respondent in a proceeding under IC 31-37-16 (before its repeal) or IC 34-26-5 to refrain from direct or indirect contact with the child.

SECTION 29. IC 31-37-19-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 6.5. (a) The juvenile court may not enter a dispositional decree placing a child in another home under section 1(3) or 6(b)(2)(D) of this chapter or awarding wardship to a person under section 1(4) or 6(b)(2)(E) of this chapter if a person who is:**

**(1) currently residing in the home in which the child would be placed under section under section 1(3), 1(4), 6(b)(2)(D), or 6(b)(2)(E) of this chapter; or**

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(2) expected to be residing in the home in which the child would be placed under section 1(3), 1(4), 6(b)(2)(D), or 6(b)(2)(E) of this chapter during the time the child would be placed in the home;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check to determine if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-37-17-6.1 establishes whether a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

SECTION 30. IC 31-37-19-17.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 17.4. (a) This section applies if a child is a delinquent child under IC 31-37-1 due to the commission of a delinquent act that, if committed by an adult, would be a sex crime listed in IC 35-38-1-7.1(e).

(b) The juvenile court may, in addition to any other order or decree the court makes under this chapter, order:

(1) the child; and

(2) the child's parent or guardian;

to receive psychological counseling as directed by the court.

SECTION 31. IC 31-39-2-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13.5. The records of the juvenile court are available without a court order to an employee of the division of family and children, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

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1           **(1) child at imminent risk of placement;**  
2           **(2) child in need of services; or**  
3           **(3) delinquent child.**  
4           SECTION 32. IC 34-30-2-44.1 IS ADDED TO THE INDIANA  
5 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
6 [EFFECTIVE JULY 1, 2004]: **Sec. 44.1. IC 12-13-15.1-11**  
7 **(Concerning members of the statewide child fatality**  
8 **reviewcommittee and persons who attend a meeting of the**  
9 **statewide child fatality review committee as invitees of the**  
10 **chairperson).**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Human Affairs, to which was referred House Bill 1194, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 10-13-3-6, AS ADDED BY P.L.2-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) As used in this chapter, "criminal justice agency" means any agency or department of any level of government whose principal function is:

- (1) the apprehension, prosecution, adjudication, incarceration, probation, rehabilitation, or representation of criminal offenders;
- (2) the location of parents with child support obligations under 42 U.S.C. 653;
- (3) the licensing and regulating of riverboat gambling operations;
- or
- (4) the licensing and regulating of pari-mutuel horse racing operations.

(b) The term includes the following:

- (1) The office of the attorney general.
- (2) The Medicaid fraud control unit, for the purpose of investigating offenses involving Medicaid.
- (3) A nongovernmental entity that performs as its principal function the:
  - (A) apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders;
  - (B) location of parents with child support obligations under 42 U.S.C. 653;
  - (C) licensing and regulating of riverboat gambling operations;
  - or
  - (D) licensing and regulating of pari-mutuel horse racing operations;

under a contract with an agency or department of any level of government.

- (4) An employee of the division of family of children, a caseworker (as defined in IC 31-9-2-11), or a juvenile probation officer conducting a criminal history check (as defined in IC 31-9-2-29.7) under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

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- (A) child at imminent risk of placement;**
- (B) child in need of services; or**
- (C) delinquent child.**

SECTION 2. IC 12-14-25.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. **(a)** Family preservation services may provide:

- (1) comprehensive, coordinated, flexible, and accessible services;
- (2) intervention as early as possible with emphasis on establishing a safe and nurturing environment;
- (3) services to families who have members placed in care settings outside the nuclear family; **and**
- (4) planning options for temporary placement outside the family if it would endanger the child to remain in the home.

**(b) Family preservation services may not include a temporary out-of-home placement if a person who is:**

- (1) currently residing in the location designated as the out-of-home placement; or**
- (2) expected to be residing in the location designated as the out-of-home placement during the time the child at imminent risk of placement would be placed in the location;**

**has committed an act resulting in a substantiated report of child abuse or neglect or has a juvenile adjudication or a conviction for a felony listed in IC 12-17.4-4-11.**

**(c) Before placing a child at imminent risk of placement in a temporary out-of-home placement, the county office of family and children shall conduct a criminal history check (as defined in IC 31-9-2-29.7) for each person described in subsection (b)(1) and (b)(2). However, the county office of family and children is not required to conduct a criminal history check under this section if the temporary out-of-home placement is made to an entity or facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.**

SECTION 3. IC 31-9-2-29.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 29.7. "Criminal history check", for purposes of IC 31-34 and IC 31-37, means a report consisting of:

- (1) criminal history data (as defined in IC 10-13-3-5);**
- (2) each substantiated report of child abuse or neglect; and**
- (3) each adjudication for a delinquent act described in IC 31-37-1-2."**

Page 1, line 13, after "12." insert "(a)".

Page 1, delete lines 16 through 17.

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Delete pages 2 through 4, begin a new paragraph and insert:

**"(b) Except as provided in subsection (c), a local child protection service shall expunge investigation records one (1) year after a report has been classified as indicated under subsection (a).**

**(c) If a local child protection service has:**

- (1) classified a report under subsection (a) as indicated; and**
- (2) not expunged the report under subsection (b);**

**and the subject of the report is the subject of a subsequent report, the one (1) year period in subsection (b) is tolled for one (1) year after the date of the subsequent report.**

SECTION 6. IC 31-33-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The reports and other material described in section 1 of this chapter shall be made available only to the following:

- (1) Persons authorized by this article.
- (2) A legally mandated public or private child protective agency investigating a report of child abuse or neglect or treating a child or family that is the subject of a report or record.
- (3) A police or other law enforcement agency, prosecuting attorney, or coroner in the case of the death of a child who is investigating a report of a child who may be a victim of child abuse or neglect.
- (4) A physician who has before the physician a child whom the physician reasonably suspects may be a victim of child abuse or neglect.
- (5) An individual legally authorized to place a child in protective custody if:
  - (A) the individual has before the individual a child whom the individual reasonably suspects may be a victim of abuse or neglect; and
  - (B) the individual requires the information in the report or record to determine whether to place the child in protective custody;
- (6) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, custodian, or other person who is responsible for the child's welfare.
- (7) An individual named in the report or record who is alleged to be abused or neglected or, if the individual named in the report is a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.
- (8) Each parent, guardian, custodian, or other person responsible

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for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with protection for the identity of reporters and other appropriate individuals.

(9) A court, upon the court's finding that access to the records may be necessary for determination of an issue before the court. However, access is limited to in camera inspection unless the court determines that public disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.

(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.

(11) An appropriate state or local official responsible for the child protective service or legislation carrying out the official's official functions.

(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.

(13) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.

(14) A person about whom a report has been made, with protection for the identity of:

(A) any person reporting known or suspected child abuse or neglect; and

(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

**(15) An employee of the division of family and children, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:**

**(A) child at imminent risk of placement;**

**(B) child in need of services; or**

**(C) delinquent child.**

**The results of a criminal history check conducted under this subdivision must be disclosed to a court determining the placement of a child described in clauses (A) through (C).**

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SECTION 7. IC 31-34-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) If a child alleged to be a child in need of services is taken into custody under an order of the court under this chapter, the court shall consider placing the child with a suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering any other out-of-home placement.

(b) Before placing a child in need of services with a blood relative or an adoptive relative caretaker, the court may order the division of family and children to:

- (1) complete a home study of the relative's home; and
- (2) provide the court with a placement recommendation.

**(c) Except as provided in subsection (e), before placing a child in need of services in an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the court shall order the division of family and children to conduct a criminal history check of each person who is:**

- (1) currently residing in the location designated as the out-of-home placement; or**
- (2) expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.**

**(d) A court may not order an out-of-home placement if a person described in subsection (c)(1) or (c)(2) has:**

- (1) committed an act resulting in a substantiated report of child abuse or neglect; or**
- (2) been convicted of a felony listed in IC 12-17.4-4-11 or had a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult.**

**(e) The court is not required to order the division of family and children to conduct a criminal history check under subsection (c) if the court orders an out-of-home placement to an entity or a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.**

SECTION 8. IC 31-34-18-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6.1. **(a)** The predispositional report prepared by a probation officer or caseworker shall include the following information:

- (1) A description of all dispositional options considered in preparing the report.
- (2) An evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement

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recommended under the guidelines described in section 4 of this chapter.

(3) The name, occupation and position, and any relationship to the child of each person with whom the preparer of the report conferred as provided in section 1.1 of this chapter.

**(b) If a probation officer or a caseworker is considering an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the probation officer or caseworker shall conduct a criminal history check for each person who is:**

- (1) currently residing in the location designated as the out-of-home placement; or**
- (2) expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.**

The results of the criminal history check must be included in the predispositional report.

**(c) A probation officer or caseworker is not required to conduct a criminal history check under this section if:**

- (1) the probation officer or caseworker is considering only an out-of-home placement to an entity or facility that:**
  - (A) is not a residence (as defined in IC 3-5-2-42.5); or**
  - (B) is licensed by the state; or**
- (2) placement under this section is undetermined at the time the predispositional report is prepared.**

SECTION 9. IC 31-34-19-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. **(a) A court may not enter a dispositional decree under subsection (b) if a person who is:**

- (1) currently residing in the location designated as the out-of-home placement; or**
- (2) expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location;**

**has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. If a criminal history check has not been conducted before a dispositional decree is entered under this section, the court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check in the manner set forth in IC 31-34-18-6.1.**

**(b) In addition to the factors under section 6 of this chapter, if the**

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court enters a dispositional decree regarding a child in need of services that includes an out-of-home placement, the court shall consider whether the child should be placed with the child's suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering other out-of-home placements for the child.

**(c) The court is not required to order a probation officer or caseworker to conduct a criminal history check under subsection (a) if the court orders an out-of-home placement to an entity or a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.**

SECTION 10. IC 31-34-20-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. **Subject to section 1.5 of this chapter**, if a child is a child in need of services, the juvenile court may enter one (1) or more of the following dispositional decrees:

- (1) Order supervision of the child by the probation department or the county office of family and children.
- (2) Order the child to receive outpatient treatment:
  - (A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or
  - (B) from an individual practitioner.
- (3) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.
- (4) Award wardship to a person or shelter care facility. Wardship under this subdivision does not include the right to consent to the child's adoption.
- (5) Partially or completely emancipate the child under section 6 of this chapter.
- (6) Order:
  - (A) the child; or
  - (B) the child's parent, guardian, or custodian;
 to receive family services.
- (7) Order a person who is a party to refrain from direct or indirect contact with the child.

SECTION 11. IC 31-34-20-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 1.5. (a) The juvenile court may not enter a dispositional decree placing a child in another home under section 1(3) of this chapter or awarding wardship to a person under section 1(4) of this chapter if a person who is:**

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(1) currently residing in the home in which the child would be placed under section 1(3) or 1(4) of this chapter; or

(2) expected to be residing in the home in which the child would be placed under section 1(3) or 1(4) of this chapter during the time the child would be placed in the home;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check to determine if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-34-4-2, IC 31-34-18-6.1, or IC 31-34-19-7 establishes whether a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

SECTION 12. IC 31-34-21-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7.5. (a) The juvenile court may not approve a permanency plan under subsection (c)(1)(D) or (c)(1)(E) if a person who is:

(1) currently residing with a person described in subsection (c)(1)(D) or (c)(1)(E); or

(2) expected to be residing with a person described in subsection (c)(1)(D) or (c)(1)(E) during the time the child would be placed in the location;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check to determine if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a

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substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-34-4-2, IC 31-34-18-6.1, IC 31-34-19-7, or IC 31-34-20-1.5 establishes whether a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(c) A permanency plan under this chapter includes the following:

(1) The intended permanent or long term arrangements for care and custody of the child that may include any of the following arrangements that the court considers most appropriate and consistent with the best interests of the child:

(A) Return to or continuation of existing custodial care within the home of the child's parent, guardian, or custodian or placement of the child with the child's noncustodial parent.

(B) Initiation of a proceeding by the agency or appropriate person for termination of the parent-child relationship under IC 31-35.

(C) Placement of the child for adoption.

(D) Placement of the child with a responsible person, including:

- (i) an adult sibling;
- (ii) a grandparent;
- (iii) an aunt;
- (iv) an uncle; or
- (v) ~~other~~ **another** relative;

who is able and willing to act as the child's permanent custodian and carry out the responsibilities required by the permanency plan.

(E) Appointment of a legal guardian. The legal guardian appointed under this section is a caretaker in a judicially created relationship between the child and caretaker that is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child:

- (i) Care, custody, and control of the child.
- (ii) Decision making concerning the child's upbringing.

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(F) Placement of the child in another planned, permanent living arrangement.

(2) A time schedule for implementing the applicable provisions of the permanency plan.

(3) Provisions for temporary or interim arrangements for care and custody of the child, pending completion of implementation of the permanency plan.

(4) Other items required to be included in a case plan under IC 31-34-15 or federal law, consistent with the permanent or long term arrangements described by the permanency plan.

SECTION 13. IC 31-37-17-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6.1. **(a)** The predispositional report prepared by a probation officer or caseworker shall include the following information:

(1) A description of all dispositional options considered in preparing the report.

(2) An evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement recommended under the guidelines described in section 4 of this chapter.

(3) The name, occupation and position, and any relationship to the child of each person with whom the preparer of the report conferred as provided in section 1.1 of this chapter.

**(b) If a probation officer or a caseworker is considering an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the probation officer or caseworker must conduct a criminal history check for each person who is:**

**(1) currently residing in the location designated as the out-of-home placement; or**

**(2) expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.**

**The results of the criminal history check must be included in the predispositional report.**

**(c) A probation officer or caseworker is not required to conduct a criminal history check under this section if:**

**(1) the probation officer or caseworker is considering only an out-of-home placement to an entity or a facility that:**

**(A) is not a residence (as defined in IC 3-5-2-42.5); or**

**(B) is licensed by the state; or**

**(2) placement under this section is undetermined at the time the predispositional report is prepared.**

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SECTION 14. IC 31-37-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. **Subject to section 6.5 of this chapter**, if a child is a delinquent child under IC 31-37-2, the juvenile court may enter one (1) or more of the following dispositional decrees:

- (1) Order supervision of the child by the probation department or the county office of family and children.
- (2) Order the child to receive outpatient treatment:
  - (A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or
  - (B) from an individual practitioner.
- (3) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.
- (4) Award wardship to a person or shelter care facility. Wardship under this subdivision does not include the right to consent to the child's adoption.
- (5) Partially or completely emancipate the child under section 27 of this chapter.
- (6) Order:
  - (A) the child; or
  - (B) the child's parent, guardian, or custodian; to receive family services.
- (7) Order a person who is a party to refrain from direct or indirect contact with the child.

SECTION 15. IC 31-37-19-6, AS AMENDED BY P.L.1-2003, SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) Except as provided in section 10 of this chapter **and subject to section 6.5 of this chapter**, the juvenile court may:

- (1) enter any dispositional decree specified in section 5 of this chapter; and
- (2) take any of the following actions:
  - (A) Award wardship to:
    - (i) the department of correction for housing in a correctional facility for children; or
    - (ii) a community based correctional facility for children.
 Wardship under this subdivision does not include the right to consent to the child's adoption.
  - (B) If the child is less than seventeen (17) years of age, order

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confinement in a juvenile detention facility for not more than the lesser of:

- (i) ninety (90) days; or
- (ii) the maximum term of imprisonment that could have been imposed on the child if the child had been convicted as an adult offender for the act that the child committed under IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).

(C) If the child is at least seventeen (17) years of age, order confinement in a juvenile detention facility for not more than the lesser of:

- (i) one hundred twenty (120) days; or
- (ii) the maximum term of imprisonment that could have been imposed on the child if the child had been convicted as an adult offender for the act that the child committed under IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).

(D) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.

(E) Award wardship to a person or shelter care facility. Wardship under this subdivision does not include the right to consent to the child's adoption.

(F) Place the child in a secure private facility for children licensed under the laws of a state. Placement under this subdivision includes authorization to control and discipline the child.

(G) Order a person who is a respondent in a proceeding under IC 31-37-16 (before its repeal) or IC 34-26-5 to refrain from direct or indirect contact with the child.

SECTION 16. IC 31-37-19-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 6.5. (a) The juvenile court may not enter a dispositional decree placing a child in another home under section 1(3) or 6(b)(D) of this chapter or awarding wardship to a person under section 1(4) or 6(b)(E) of this chapter if a person who is:**

- (1) currently residing in the home in which the child would be placed under section under section 1(3), 1(4), 6(b)(D), or 6(b)(E) of this chapter; or**
- (2) expected to be residing in the home in which the child would be placed under section 1(3), 1(4), 6(b)(D), or 6(b)(E) of this chapter during the time the child would be placed in the**

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home;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check to determine if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-37-17-6.1 establishes whether a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

SECTION 17. IC 31-39-2-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 13.5.** The records of the juvenile court are available without a court order to an employee of the division of family of children, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

- (1) child at imminent risk of placement;
- (2) child in need of services; or
- (3) delinquent child."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1194 as introduced.)

SUMMERS, Chair

Committee Vote: yeas 12, nays 0.

EH 1194—LS 7344/DI 105+



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## HOUSE MOTION

Mr. Speaker: I move that House Bill 1194 be amended to read as follows:

Page 2, line 13, after "family" delete "of" and insert "**and**".

Page 3, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 5. IC 31-33-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The local child protection service:

(1) must have sufficient qualified and trained staff to fulfill the purpose of this article; ~~and~~

(2) must be organized to maximize the continuity of responsibility, care, and service of individual caseworkers toward individual children and families; **and**

**(3) must provide training, for each staff person who is involved in the investigation of child abuse or neglect or who is involved in the provision of treatment services under IC 31-33-12 or IC 31-33-13 in the duty of the staff person, to recognize and attempt to uphold the:**

**(A) statutory rights of a child and any member of a child's family, including a child's guardian or custodian, who is the subject of an investigation of child abuse or neglect; and**

**(B) right of a child and any member of a child's family, including a child's guardian or custodian, who is the subject of an investigation of child abuse or neglect to be protected against unreasonable search and seizure under:**

**(i) the Fourth Amendment to the Constitution of the United States; and**

**(ii) Article 1, Section 11 of the Constitution of the State of Indiana.**

SECTION 6. IC 31-33-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) When a law enforcement agency receives an initial report under IC 31-33-5-4 that a child may be a victim of child abuse or neglect, the law enforcement agency shall:

(1) immediately communicate the report to the local child protection service, whether or not the law enforcement agency has reason to believe there exists an imminent danger to the child's health or welfare; and

(2) conduct an immediate, onsite investigation of the report along with the local child protection service whenever the law enforcement agency has reason to believe that an offense has been

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committed.

**(b) A law enforcement officer or a member of a local child protection service conducting an onsite investigation shall, upon the initiation of the onsite investigation, inform each person who is the subject of the investigation of the nature of the complaint. The law enforcement officer or the member of the local child protection service is only required to provide a person who is the subject of an investigation with information the person is entitled to receive under IC 31-33-18-2.**

**(c)** In all cases, the law enforcement agency shall forward any information, including copies of investigation reports, on incidents of cases in which a child may be a victim of child abuse or neglect, whether or not obtained under this article, to:

- (1) the local child protection agency; and
- (2) the juvenile court under IC 31-34-7.

SECTION 7. IC 31-33-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The local child protection service shall initiate an immediate and appropriately thorough child protection investigation of every report of known or suspected child abuse or neglect the local child protection service receives, whether in accordance with this article or otherwise.

(b) Subject to subsections (d) and (e), if the report alleges a child may be a victim of child abuse, the investigation shall be initiated immediately, but not later than twenty-four (24) hours after receipt of the report.

(c) Subject to subsections (d) and (e), if reports of child neglect are received, the investigation shall be initiated within a reasonably prompt time, but not later than five (5) days, with the primary consideration being the well-being of the child who is the subject of the report.

(d) If the immediate safety or well-being of a child appears to be endangered or the facts otherwise warrant, the investigation shall be initiated regardless of the time of day.

(e) If the child protection service has reason to believe that the child is in imminent danger of serious bodily harm, the child protection service shall initiate within one (1) hour an immediate, onsite investigation.

**(f) A member of a local child protection service conducting an onsite investigation shall, upon the initiation of the onsite investigation, inform each person who is the subject of the investigation of the nature of the complaint. The member of the local child protection service is only required to provide a person who is the subject of an investigation with information the person**

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**is entitled to receive under IC 31-33-18-2.**

SECTION 8. IC 31-33-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) Upon the receipt of each report under this chapter of known or suspected child abuse, the local child protection service shall contact the law enforcement agency in the appropriate jurisdiction.

(b) The law enforcement agency, with the local child protection service, shall conduct an immediate onsite investigation of the report if the law enforcement agency has reason to believe that an offense has been committed. The law enforcement agency shall investigate the alleged child abuse or neglect under this chapter in the same manner that the law enforcement agency conducts any other criminal investigation.

**(c) A law enforcement officer or a member of a local child protection service conducting an onsite investigation shall, upon the initiation of the onsite investigation, inform each person who is the subject of the investigation of the nature of the complaint. The law enforcement officer or the member of the local child protection service is only required to provide a person who is the subject of an investigation with information the person is entitled to receive under IC 31-33-18-2."**

Page 14, line 13, after "family" delete "of" and insert "**and**".

Re-number all SECTIONS consecutively.

(Reference is to HB 1194 as printed January 30, 2004.)

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SENATE MOTION

Madam President: I move that Senator Dillon be added as cosponsor of Engrossed House Bill 1194.

LONG

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SENATE MOTION

Madam President: I move that Senator Dillon be removed as cosponsor of Engrossed House Bill 1194.

DILLON

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SENATE MOTION

Madam President: I move that Senator Long be removed as sponsor of Engrossed House Bill 1194 and that Senator Dillon be substituted therefor.

LONG

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SENATE MOTION

Madam President: I move that Senator Long be added as cosponsor of Engrossed House Bill 1194.

DILLON

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## COMMITTEE REPORT

Madam President: The Senate Committee on Criminal, Civil and Public Policy, to which was referred House Bill No. 1194, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 2. IC 12-7-2-28, AS AMENDED BY P.L.34-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 28. "Child" means the following:

(1) For purposes of IC 12-13-15, the meaning set forth in IC 12-13-15-1.

**(2) For purposes of IC 12-13-15.1, the meaning set forth in IC 12-13-15.1-1.**

**(3)** For purposes of IC 12-17.2 and IC 12-17.4, an individual who is less than eighteen (18) years of age.

~~(3)~~ **(4)** For purposes of IC 12-26, the meaning set forth in IC 31-9-2-13(d).

SECTION 3. IC 12-7-2-76.7, AS ADDED BY P.L.34-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 76.7. **(a)** "Emergency medical services", for purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-2.

**(b) "Emergency medical services", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-2.**

SECTION 4. IC 12-7-2-124.5, AS ADDED BY P.L.34-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 124.5. **(a)** "Local child fatality review team", for purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-3.

**(b) "Local child fatality review team", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-3.**

SECTION 5. IC 12-7-2-129.5, AS ADDED BY P.L.34-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 129.5. **(a)** "Mental health provider", for purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-4.

**(b) "Mental health provider", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-4.**

SECTION 6. IC 12-7-2-186.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 186.5. "Statewide child fatality review committee", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-5.**

SECTION 7. IC 12-13-15-6.5 IS ADDED TO THE INDIANA

EH 1194—LS 7344/DI 105+



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CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 6.5. A local child fatality review team may request that the statewide child fatality review committee make a fatality review of a child from the area served by the local child fatality review team if a majority of the members of a local child fatality review team vote to make the request.**

SECTION 8. IC 12-13-15.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

**Chapter 15.1. Statewide Child Fatality Review Committee**

**Sec. 1. As used in this chapter, "child" means an individual less than eighteen (18) years of age.**

**Sec. 2. As used in this chapter, "emergency medical services" means emergency ambulance services or other services, including extrication and rescue services, provided to an individual in need of immediate medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.**

**Sec. 3. As used in this chapter, "local child fatality review team" refers to a county or regional child fatality review team established under IC 12-13-15.**

**Sec. 4. As used in this chapter, "mental health provider" means any of the following:**

- (1) A registered nurse or licensed practical nurse licensed under IC 25-23.**
- (2) A clinical social worker licensed under IC 25-23.6-5.**
- (3) A marriage and family therapist licensed under IC 25-23.6-8.**
- (4) A psychologist licensed under IC 25-33.**
- (5) A school psychologist licensed by the Indiana state board of education.**

**Sec. 5. As used in this chapter, "statewide child fatality review committee" refers to the statewide child fatality review committee established by section 6 of this chapter.**

**Sec. 6. (a) The statewide child fatality review committee is established for the purpose of reviewing a child's death that is:**

- (1) sudden;**
- (2) unexpected; or**
- (3) unexplained;**

**if the county where the child died does not have a local child fatality review team or if the local child fatality review team requests a review of the child's death by the statewide committee.**

**(b) The statewide child fatality review committee may also**

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review the death of a child upon request by an individual.

(c) A request submitted under subsection (b) must set forth:

- (1) the name of the child;
- (2) the age of the child;
- (3) the county where the child died or where the near fatality occurred;
- (4) whether a local child fatality review team reviewed the death; and
- (5) the cause of death of the deceased child.

Sec. 7. A child fatality review conducted by the statewide child fatality review committee under this chapter shall consist of determining:

- (1) whether similar future deaths could be prevented; and
- (2) agencies or resources that should be involved to adequately prevent future deaths of children.

Sec. 8. The statewide child fatality review committee consists of the following members appointed by the governor:

- (1) a coroner or deputy coroner;
- (2) a representative from:
  - (A) the state department of health established by IC 16-19-1-1;
  - (B) a local health department established under IC 16-20-2; or
  - (C) a multiple county health department established under IC 16-20-3;
- (3) a pediatrician;
- (4) a representative of law enforcement;
- (5) a representative from an emergency medical services provider;
- (6) a director of an office of family and children;
- (7) a representative of a prosecuting attorney;
- (8) a pathologist with forensic experience who is licensed to practice medicine in Indiana;
- (9) a mental health provider;
- (10) a representative of a child abuse prevention program; and
- (11) a representative of the department of education.

Sec. 9. (a) The chairperson of the statewide child fatality review committee shall be selected by the governor.

(b) The statewide child fatality review committee shall meet at the call of the chairperson.

(c) The statewide child fatality review committee chairperson

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shall determine the agenda for each meeting.

**Sec. 10. (a)** Except as provided in subsection (b), meetings of the statewide child fatality review committee are open to the public.

**(b)** Except as provided in subsection (d), a meeting of the statewide child fatality review committee that involves:

- (1)** confidential records; or
- (2)** identifying information regarding the death of a child that is confidential under state or federal law;

shall be held as an executive session.

**(c)** If a meeting is held as an executive session under subsection (b), each individual who:

- (1)** attends the meeting; and
- (2)** is not a member of the statewide child fatality review committee;

shall sign a confidentiality statement prepared by the division. The statewide child fatality review committee shall keep all confidentiality statements signed under this subsection.

**(d)** A majority of the members of the statewide child fatality review committee may vote to disclose any report or part of a report regarding a fatality review to the public if the information is in the general public interest as determined by the statewide child fatality review committee.

**Sec. 11.** Members of the statewide child fatality review committee and individuals who attend a meeting of the statewide child fatality review team as an invitee of the chairperson:

- (1)** may discuss among themselves confidential matters that are before the statewide child fatality review committee;
- (2)** are bound by all applicable laws regarding the confidentiality of matters reviewed by the statewide child fatality review committee; and
- (3)** except when acting:
  - (A)** with malice;
  - (B)** in bad faith; or
  - (C)** with gross negligence;

are immune from any civil or criminal liability that might otherwise be imposed as a result of communicating among themselves about confidential matters that are before the statewide child fatality review committee.

**Sec. 12.** The division shall provide training to the statewide child fatality review committee.

**Sec. 13. (a)** The division shall collect and document information surrounding the deaths of children reviewed by the statewide child

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fatality review committee. The division shall develop a data collection form that includes:

- (1) identifying and nonidentifying information;
- (2) information regarding the circumstances surrounding a death;
- (3) factors contributing to a death; and
- (4) findings and recommendations.

(b) The data collection form developed under this section must also be provided to:

- (1) the appropriate community child protection team established under IC 31-33-3; and
- (2) the appropriate:
  - (A) local health department established under IC 16-20-2; or
  - (B) multiple county health department established under IC 16-20-3.

Sec. 14. The affirmative votes of the voting members of a majority of the statewide child fatality review committee are required for the committee to take action on any measure.

Sec. 15. The expenses of the statewide child fatality review committee shall be paid from funds appropriated to the division.

Sec. 16. The testimony of a member of the statewide child fatality review committee is not admissible as evidence concerning an investigation by the statewide child fatality review committee."

Page 6, between lines 14 and 15, begin a new paragraph and insert: "SECTION 9. IC 31-33-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) Except as provided in subsection (b), the following are confidential:

- (1) Reports made under this article (or IC 31-6-11 before its repeal).
- (2) Any other information obtained, reports written, or photographs taken concerning the reports in the possession of:
  - (A) the division of family and children;
  - (B) the county office of family and children; or
  - (C) the local child protection service.

(b) Except as provided in subsection (c), all records held by:

- (1) the division of family and children;
- (2) a county office of family and children;
- (3) a local child protection service;
- (4) a local child fatality review team established under IC 12-13-15; or
- (5) the statewide child fatality review committee established

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under IC 12-13-15.1-6;  
 regarding the death of a child determined to be a result of abuse, abandonment, or neglect are not confidential and shall be disclosed to any person who requests the information if the record has been redacted to remove information not directly relevant to the death. The person requesting the information may be required to pay the reasonable expenses of redacting the record. Any information in a report that is otherwise confidential under state or federal law shall not be released.

(c) The entity releasing a redacted record described in subsection (b) shall certify in writing that the record has been redacted to remove information not directly relevant to the death.

(d) A person who believes that a record has been improperly redacted may file a written request for review of the record with a court exercising juvenile jurisdiction in the county in which the fatality occurred. Within thirty (30) days after receiving a written request for review, the court shall appoint a disinterested person having expertise in the area of juvenile and family law to review the record and determine whether the record has been properly redacted. If the records has not been properly redacted, the disinterested person shall properly redact the record.

(e) The court that appointed the disinterested person shall determine reasonable compensation for the disinterested person and order the person requesting the record review to pay this amount to the disinterested person. However, if the court finds that the entity that redacted the record did not redact the record in good faith, or was grossly negligent in redacting the record, the court may order the entity that redacted the record to pay some or all of the compensation to the disinterested person."

Page 6, line 17, strike "section 1" and insert "section 1(a)".

Page 8, between lines 4 and 5, begin a new line single block indented and insert:

**"(16) A local child fatality review team established under IC 12-13-15-6.**

**(17) The statewide child fatality review committee established by IC 12-13-15.1-6.**

SECTION 11. IC 31-33-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. **(a)** An individual who

~~(1) knowingly requests, obtains, or seeks to obtain child abuse or neglect information under false pretenses or~~

~~(2) knowingly falsifies child abuse or neglect information or~~

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~~records;~~  
commits a Class B misdemeanor.

**(b) A person who knowingly or intentionally:**

**(1) falsifies child abuse or neglect information or records; or**  
**(2) obstructs or interferes with a child abuse investigation,**  
**including an investigation conducted by a local child fatality**  
**review team or the statewide child fatality review committee;**  
**commits obstruction of a child abuse investigation, a Class A**  
**misdemeanor."**

Page 15, line 38 delete "6(b)(D)" and insert "**6(b)(2)(D)**".

Page 15, line 39, delete "6(b)(E)" and insert "**6(b)(2)(E)**".

Page 15, line 42, delete "6(b)(D)," and insert "**6(b)(2)(D),**".

Page 16, line 1, delete "6(b)(E)" and insert "**6(b)(2)(E)**".

Page 16, line 3, delete "6(b)(D), or 6(b)(E)" and insert "**6(b)(2)(D),**  
**or 6(b)(2)(E)**".

Page 16, between lines 24 and 25, begin a new paragraph and insert:  
"SECTION 20. IC 31-37-19-17.4 IS ADDED TO THE INDIANA  
CODE AS A NEW SECTION TO READ AS FOLLOWS  
[EFFECTIVE JULY 1, 2004]: **Sec. 17.4. (a) This section applies if a**  
**child is a delinquent child under IC 31-37-1 due to the commission**  
**of a delinquent act that, if committed by an adult, would be a sex**  
**crime listed in IC 35-38-1-7.1(e).**

**(b) The juvenile court may, in addition to any other order or**  
**decree the court makes under this chapter, order:**

**(1) the child; and**

**(2) the child's parent or guardian;**  
**to receive psychological counseling as directed by the court."**

Page 16, after line 35, begin a new paragraph and insert:

"SECTION 22. IC 34-30-2-44.1 IS ADDED TO THE INDIANA  
CODE AS A NEW SECTION TO READ AS FOLLOWS  
[EFFECTIVE JULY 1, 2004]: **Sec. 44.1. IC 12-13-15.1-11**  
**(Concerning members of the statewide child fatality**  
**reviewcommittee and persons who attend a meeting of the**  
**statewide child fatality review committee as invitees of the**  
**chairperson)."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1194 as reprinted February 5, 2004.)

LONG, Chairperson

Committee Vote: Yeas 8, Nays 0.

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